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JUN 09 2011Docket No.: 163-667

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

## PATENT OPERATIONS

In re Application of: )  
                          )  
Marilena Gusmeroli et al.     ) Group Art Unit: 1616  
                          )  
Serial No.: 10/556,013         ) Examiner: Danielle D. Sullivan  
                          )  
Filed: September 1, 2006         )  
                          )

For: COPPER SALTS OF ORGANIC ACIDS AND USE THEREOF AS  
FUNGICIDES

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## DECLARATION UNDER 37 CFR§1.132

Sir:

I, Marilena Gusmeroli, am a named inventor in the above identified application and I am making this Declaration for the purpose of providing comparative test data that compares the fungicidal efficiency of 2-methoxy succinic acid copper (II) salt ( $C_5H_6O_3 \cdot Cu$  MW = 209.66) and 2-stearylsuccinic acid copper(II) salt ( $C_{22}H_{40}O_4 \cdot Cu$  MW = 432.17). The 2-methoxy succinic acid copper (II) salt was prepared as described in Example 4 of the above identified application and the 2-stearylsuccinic acid Cu(II) salt is a comparative compound that was selected from the generically disclosed copper salts of 2-substituted

succinic acid derivatives, where the  $\alpha$ -position is substituted with an aliphatic hydrocarbon based group having 8-35 carbon atoms, in U.S. 4,552,677, at col. 6, lines 1-10.

The fungicidal test was carried out as described in Example 6 of the above identified application and the results are reported in the Table:

Table

Compound	% activity at 125 mg/l of copper (mg/l of salt)	% activity at 30 mg/l of copper (mg/l of salt)	% activity at 7.5 mg/l of copper (mg/l of salt)
2-methoxy <sup>1</sup>	100 (412.4)	93 (98.97)	70 (24.74)
2-stearyl <sup>2</sup>	14 (850)	4 (204)	0 (51)

<sup>1</sup> 2-methoxy succinic acid copper (II) salt

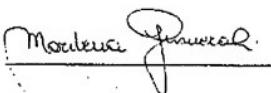
<sup>2</sup> 2-stearyl succinic acid copper (II) salt

The tests were carried out based on the use of equivalent weights of the test compounds based on the copper content. Thus the total weight of the 2-stearyl succinic acid copper(II) salt that was tested against the compound of the invention was almost double the concentration of the 2-methoxy succinic acid copper(II) salt. The test results demonstrate that the 2-methoxy succinic acid copper (II) salt has an unexpectedly higher fungicidal activity than the 2-stearyl succinic acid copper(II) compound.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false

statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardize the validity of the application and of any patent issued thereon.

Dated: 8 June 2011

  
Michael J. Fenwick